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# THE PROVINCE LAWS.



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# THE PROVINCE LAWS.

THEIR VALUE, AND  
THE PROGRESS OF THE NEW EDITION.

*Revised Thomas West Emerson.*

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BOSTON :  
CUPPLES, UPHAM & CO., PUBLISHERS.

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## P R E F A C E .

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THE author of this pamphlet was for more than twenty years a fellow townsman, and during the years 1861 and 1862 a student at law, of the late Ellis Ames, senior editor, after the death of Gov. Clifford, of the Province Laws, now being reprinted by authority of the Commonwealth. Having from childhood taken a deep interest in local history, and having enjoyed exceptional opportunities of observing the devotion with which his departed friend labored to collect and preserve for public use the rare and fading pages of the legislation of the Colony and Province, upon which our state superstructure is erected, he naturally took some interest in the work. He frequently listened to the conversations between Gov. Clifford and Mr. Ames upon the subject, and well remembers the large bossed safe and the antique bookshelves that held the rare old jewels; that, covered with dust and liable any day to be burned, adorned one side of this musty old office.

Again, some two years ago the writer heard a distinguished antiquary, a resident of New York City, in the course of conversation say, "That the great object of his life was to complete his set of Massachusetts early laws." The next express that went to New York carried over twelve hundred pages of Acts and Resolves, Journals of the House, Perpetual and Temporary Laws, passed between the years 1684 and 1779. Since this article was commenced the writer has been informed that the set, owned by his own state, was not complete, and that three pages of this collection, given out of the state if for sale to-day, would bring their weight in diamonds. He deeply regrets that the few hundred pages he now has, are not of equal value.

Having had occasion to frequently use the volumes of the Province Laws which have been published, and gleaming much material of historical value from them, it was with some surprise that he read the doubt expressed in the recent message of Gov. George D. Robinson, as to how far the work is to be carried, and what amount

of money is "reasonably proper" to continue the undertaking. Whether the doubt arises from unfamiliarity with the subject, whether the Governor has been led to believe that some other department can use this money to better advantage, or whether, if retrenchment must come, there will be less of a contest with historians than with politicians, we are not informed. The Governor has simply called the attention of the Legislature to the question whether the expense of the work is disproportionate to its usefulness.

No one having come forward to give to the public those details in relation to the purposes of the work, which the citizens have a right to know, and in which it may be reasonably supposed, in view of the prominence which the Governor has given to the subject, they would be likely to take an interest, the writer offers this pamphlet to supply, as far as in his ability lies, the information withheld in His Excellency's Address.

In publishing these pages the author has a two-fold satisfaction : first, it gives him an opportunity to pay a tribute to the memory of a profound, laborious, and useful worker in the law, who was more eager to obtain and impart knowledge than to seek position or parade his achievements, a dear, kind hearted friend for nearly a quarter of a century.

And secondly, to give his fellow citizens some idea of the value and progress of a work, the importance of which may be estimated, when it is known that even to the legal profession it is the revelation of a body of laws, imposed upon us by the constitution, but of which even our judges have had no knowledge, except what they have obtained from a few experts who enjoyed a monopoly in this branch of learning, by having spent their lives in accumulating and becoming at last the fortunate possessors of two or three sets of the early laws, none of which were complete.

DANIEL T. V. HUNTOON.

Canton, Feb. 20, 1885.

## PROVINCE LAWS.

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**I**N the recent message of Gov. George D. Robinson, the following paragraph appears under the heading "Provincial Laws."

"In 1865 and 1867 authority to publish the acts and laws of the Province of Massachusetts Bay was given, and to the present time four volumes have been issued and distributed, and another volume is in the hands of the printer. The expenditures, authorized by appropriations from year to year, amount now to \$77,505.75. The work, without doubt, has been well done; but would it not be well to inquire what limit to its extent and cost is reasonably proper? The Governor and Council, to whom the authority for publication is committed, can exercise but little discretion in this matter, in view of the grants of money made by the Legislature from time to time."

The resolve of 1865 alluded to by the Governor, authorized the appointment of three or more commissioners, "to prepare for publication a complete copy of the statutes and laws of the Province and State of Massachusetts Bay, from the time of the Province Charter to the adoption of the Constitution of the commonwealth, including all the session acts, private and public, general and special, temporary and perpetual, passed from time to time by the General Court; all incorporations of towns and parishes, and all other legislative acts of legal or historic importance, appearing on the records of the General Court, with suitable marginal references to the statutes and judicial decisions of the Province and Commonwealth; the orders of the King in Council, and to such other authorities as, in their opinion, may enhance the value and usefulness of the work; and to append to the same a complete index."

The commissioners appointed under this resolve, were presumed to be the best that could be selected in the state; they were men prominent in their profession.

The first commissioner named was John H. Clifford, who as Governor had shown his love for the state by calling the attention of his council to the decayed and perishing condition of the oldest records, and in a special message on the twelfth of February, 1853, recommended and strongly urged the printing of the two oldest volumes, that comprised the records of about twenty years of our political existence. From his practice at law, he knew the vast importance

of saving from destruction the ancient laws of the state that had honored him with its highest gift, and for his labor on the Province Laws deserves the thanks of all students of law, history and philosophy.

Next in order came Ellis Ames, of Canton, who has died within the past year, of whom an eminent lawyer says in "Every Other Saturday," under date of December 6, 1884—"Ellis Ames was decidedly at the head of the Norfolk\* and Plymouth Bars, . . . . He was reputed the best equity lawyer in the state, and in special pleading, and in the old learning of the common law, he was considered a great man. His preparation of his cases was most exhaustive; he left no loopholes, and he made few blunders, . . . . he was learned, strong and honest."

It should be recorded, because so uncommon now-a-days, that he never gave a friend one of these volumes of the Province Laws, without paying for it out of his own pocket.

Mr. Ellis Ames was selected as a member of the commission, because he had been for many years, what might well have been called, the "right bower" of the Supreme Court, in all matters pertaining to the Colonial and Provincial Laws; the judges were dependent on him, for he made a study of the ancient law and was thoroughly proficient in it. He had spent forty years of his life, travelled hundreds of miles, in order to collect books and pamphlets relating to the subject, and when any matter of grave importance, involving obscure points of legal history, came up, his decision settled it. Before Mr. Ames's day this position was accorded to Nathan Dane; before him, to Judge Edmund Trowbridge, an eminent lawyer, Attorney General and Judge of the Superior Court of Judicature, during the period of the Revolution. Before Trowbridge, John Read, commonly called "the father of the Common Law." All the above mentioned were eminent and profound lawyers, who were familiar with these early laws.

While the Essex Institute's collection of the Provincial Statutes was rare and valuable, especially in the earliest Session acts, Mr. Ames's collection was more complete and more methodically arranged, embracing (1) The Session acts down to 1699, the date of the first revision. (2) The edition of 1699 with supplements to 1714, the date of the second revision. (3) The edition of 1714 with supplements to 1726, the date of the third edition. (4) The edition of 1726 with supplements to 1742, the date of the fourth edition. (5) The edition, Temporary and Perpetual, of 1742, with supplements to 1755.

Of the editions of 1699, 1714, 1726, 1742, 1755, 1759, 1763, Temporary and Perpetual, with the supplements to each, only one other set approaching this in completion is known to exist, and was

\* See Appendix A.

perfected since this set was sold to the state. It is in the Lenox Library in New York, and the writer believes that the splendid *Psalmorum Codex* printed by Faust and Schoeff in 1459, sold recently for £4,950, would not be taken in exchange for it. We know that the Mazarin bible that was sold at the same sale for £3,900 would have been no inducement, for they have already a copy for which they only paid in 1848 £500. When a New York man like Mr. Lenox gives more than \$2,000,000, and a private collection of books, the rare bibles and testaments of which alone are worth \$100,000, and which he had been more than forty years collecting, to found a library for the use of students in special subjects in the city of New York, when he, or after his death, when the eminent historian, whom he honored with the guardianship of his trust, George H. Moore, LL.D., places such a value on the rubbish of New England attics, how long will it be before we must go to New York to learn our own history?

And yet, although the set of Mr. Ames was considered perfect, the diligent, active and energetic commissioners have added to the new edition of the Province Laws one hundred and thirty-seven public, and thirty-two private acts that were not contained in Mr. Ames's collection.

The only surviving member of this commission is Abner Cheney Goodell, Jr., upon whom, from the beginning, has fallen all the detail of the work, being the youngest, having been appointed when only thirty-three years of age. His standing was remarkably good, as a lawyer. He was admitted to the bar at the age of twenty-one, and soon built up a very large practice, extending beyond his own county, to Suffolk and Norfolk counties, as the dockets of the old Court of Common Pleas and Superior Court of Suffolk, and of the Supreme Judicial Court, will show. Such was his position, when the solicitation of his friends, his love of historic law, and the mandate of the Governor influenced him to devote himself to the preparation of these volumes of "The Province Laws."

His contributions to history show marvellous research; his monographs on "The Court Seals" and "Witchcraft" are well known, and have, in connection with the "Notes" on the latter subject, by perhaps the greatest historian in New York, George H. Moore, LL.D., brought out a mass of new material, which illumined by such accurate, pains-taking, and learned men, throws a clear, white, one might say, an electric light, into those dark and dismal ages of the past.

Mr. Goodell was appointed, perhaps, because he held the post of Vice President of the Essex Institute, in the department of history. He is a member of the Massachusetts Historical Society, a life member of the New England Historic Genealogical Society, and corresponding member of the New York, New Hampshire, and Rhode Island Historical Societies. The commissioners of 1811, Dane,

Story and Prescott, were all members of the Essex County Historical Society, which was merged in the Institute; and the library of the latter contained the ancient volumes of the Province Laws used by the commissioners before named in compiling the edition of 1811. These books the present commissioners have made the best use of, with the consent of the Essex Institute, even cutting them up as copy for the printers.

Soon after the appearance of the first volume of this series of Province Laws, it was said of Mr. Goodell, that "his persistent study at home and correspondence with England, involving an amount of ingenious labor and thought, which but few appreciate, has helped to a completeness and thoroughness before unattained." Mr. Goodell, it is well known, has often been consulted by law writers, historians and judges, in this and other states, on recondite matters of law, requiring historical research.

Such were the men selected to undertake the publication of the Province Laws, and who have, with absolute fidelity, with the highest conceptions of professional and public duty, continued while life was spared, to save for us and posterity, in well arranged, well printed but not expensive books, the musty records of our noble Commonwealth, that might at any hour have been destroyed by fire.

Do I anticipate the comment of my reader, familiar with political affairs of the day, if at this point he exclaims, "All very true, but how much money did they get out of it?"

In the year 1853 the Commonwealth resolved that the Massachusetts Colony Records should be printed, as requested by Gov. Clifford. The cost of preparing and printing these five volumes was \$41,834.44.\*

Two years later, from fear that the Ancient Records of Plymouth Colony might be destroyed by fire, they were ordered to be copied and printed. The wisdom of this measure will be very apparent to those who witnessed the condition of the floor of the Plymouth Court House, after the fire which occurred there within a year or two. The Plymouth Records consisted of twelve volumes, which, with the five previously printed, completed the two colonies. For printing these twelve volumes, there was paid the sum of \$47,117.66.†

The total cost of preparing and printing the Province Laws, is as follows, \$77,255.75.‡

The reader will see that the amount paid to Mr. A. C. Goodell, Jr., in the above statement, is \$11,837.13. Now this represents, let it be remembered, twenty years of labor when next June comes; not work, from ten till four o'clock in the day time, but from early morning to five in the afternoon, then home, and work again at night; and his average yearly salary has amounted to the enormous sum of

\* For Items, see Appendix B.

† For Items, see Appendix C.

‡ For Items, see Appendix D.

less than six hundred dollars a year. It would be interesting to compare this amount with some of the officers, who attend the State House during the session only, or even the gentlemen who answer bell calls.

Let us for a moment compare the two publications. In the first place, the number of words in the twelve volumes of the Plymouth and Massachusetts Colony Records is estimated at 2,683,846, while the number of words in the six\* volumes of the Province Laws, including the reprint of volume 2, which was destroyed by fire, so far is more than 4,500,000, of which 1,100,000 are editorial notes, procured either in the Public Record Office in London, or by the most laborious and exhaustive research in the poorly indexed files and volumes in the State Archives, numbering in all about four hundred immense volumes, folios and manuscripts.

The history of each act, as far as it could be discovered by this research, is given in the notes, at the end of the acts of each year, and a flood of new light is thereby thrown upon the laws and history of the Province.

Again, while it has been the purpose of the editor to make these notes clear, in every passage that might by any possibility be misconstrued, he has condensed them as much as possible, consistent with a due regard to making his statements understood, and they are in many instances more valuable than the text itself.

The records of towns and parishes, the pages of unpublished contemporary journals, and printed histories, have been made to contribute to the work; and the public records of each county, existing before the Revolution, have been personally examined and referred to, when necessary, by the commissioners.

The acts have not only been compared, letter by letter, with the original engrossments, when the engrossments could be found, but also with the contemporaneous impressions of the acts, and all differences carefully noted.

The result of this research has been the restoration of three hundred and sixty-seven acts, the engrossments of which had, in the course of time, been lost from the Secretary's office, and one hundred and thirty-seven acts which are not to be found in any other printed collection.

Finally, it should be remembered, that when some of these volumes were passing through the press, during the period just after the war, the price of composition, press-work, paper and binding, was at its highest.

On the other hand, the first six volumes of the Plymouth Colony Records had no editorial work done on them; the editor in his introductory remarks, writes, "In the performance of his duty, the editor has studiously avoided making comments upon the subject

\* See Appendix E.



matter of the records." The editor, therefore, according to his own showing, was merely a proof reader, who compared his sheets with a single original manuscript.

The cost of the twelve volumes of the Plymouth and Massachusetts Records was \$88,962.10. The cost of the Province Laws is \$77,505.75.

Compare either of these with the cost of the Public Statutes, which, if I am rightly informed, cost \$99,687.61, and what was the editorial work on that? Compare it with the editorial work on the Memoir of Hon. Charles Sumner.

The whole cost is considerably less than the extra or "contingent" expenses of the Council and Executive for the same period, if the Auditor's statement for January, 1884, is a fair average. The comparison might be extended to either one of the Justices of the Superior Court for their services alone; while here we have the volumes, besides the labor involved.

One thing is clear: If the commissioners' labors began in 1865, when authority was first given for the work, according to the Governor's statement, their expenditures thus far have not exceeded \$4,000 a year, for salaries of commissioners and clerks, stationery and incidentals, as well as for composition, stereotyping, press-work, binding, and supplying to every town in the state the four volumes already distributed, and for defraying all the cost thus far of a fifth volume nearly completed.

I cannot believe that the people of Massachusetts are going to consider the cost of this edition of the Province Laws as burdensome, when they understand the matter. Four thousand a year would be about four mills *per capita* throughout the state.

Will the citizens of Boston, who pay forty-two per cent. of the State tax, refuse to contribute \$1,680, less than one junketing bill, to have the old records preserved and made available for use, or is it more advantageous to spend it for wine and cigars. The City of Boston has done nobly in perpetuating her own records. Ten volumes, containing an enormous amount of information, have been distributed throughout the country; and antiquaries, historians and lawyers are no longer subject to the inconvenience and loss of time it used to take, to consult the original unindexed records. One can always find a copy at the public libraries throughout the state, and some individuals are fortunate enough to own a set. If one thinks the Province Laws are valueless, buy a set, keep it twenty years, and, with the plates of the first volume burned, judging from our knowledge of the value of earlier editions, they will bring a very large price.

In order that the Governor may better understand the scope of this work, we shall endeavor to show what value was placed by his illustrious predecessors upon the Province Laws, what efforts they made to save them, and preserve, in the best manner, a collection of

statutes which should show, in chronological sequence, the development of our legislation.

At the same time it will not be amiss to place on record, the money value which individual searchers place on these musty, faded, yellow pages. It may help us all to realize the value of the new edition a hundred years from now.

During the period of the first charter, between the years 1628 and 1691, three editions of the laws were published, in 1648, 1660, 1672. A single copy of the edition of 1648, if it could be found, would easily bring ten thousand dollars, and persons are known to the writer who will pay that amount for it to-day. Copies of the editions of 1660 and 1672, with the supplements complete, are worth as much as "Eliot's Indian Bible" or the "Bay Psalm Book." Of the two copies of this edition in Boston, one at the State Library and one at the Athenæum, neither are complete, as both lack supplements.

During the time of the second charter, between 1692 and 1774, Sir William Phipps, on the sixteenth of December, 1692, ordered the "Acts and Laws made by the Great and General Court, or Assembly, of this their Majesty's Province of the Massachusetts Bay in New England, to be printed, that so the people might be informed thereof;" and it was done. In 1713, the Governor, Council, and Assembly ordered the Acts and Laws, since the second charter, to be reprinted, and it was done the following year; but a copy with the supplements is rare now-a-days; and yet it was distributed in all the towns of the Province, as this new edition will be in all the towns of the Commonwealth.

In 1726 another reprint was issued, with supplements running to 1742; a perfect copy, with its whole number of seven hundred and eighty-nine pages, would set a bibliophile wild.

In August, 1742, the laws were again revised and reprinted in two volumes; one of Temporary and one of Perpetual Laws; the former were continued, with supplements, up to 1755, and the latter until 1760. A perfect copy of either is rarely seen, owing to the loss of the supplements.

In 1752 Lieut. Gov. Phips reminded the Council and Representatives that many of the laws were "obsolete and others by frequent additions, amendments and alterations are rendered difficult to be understood and variously construed and practised upon." Again in a letter to the Lords of Trade, under date of Jan. 24, 1753, he says:

"I am not to confine you to any particular form in your proceeding, but I must recommend to you a plan which has been executed by one of His Majesty's other Govern<sup>rs</sup> with very good success, a Copy of which shall also be laid before you. It is generally allowed that there is no juster way of forming a Judgment of the wisdom of any People than by their body of Laws; it behoves you the efore to give the greatest attention to what I now propose to you, and as it is a work that will require much time and close application you cannot too soon engage upon it."

Later Gov. Shirley made a speech on the necessity of a revision of the laws, fully setting forth the advantages of such a work, and arguing against numerous objections which the members of the Assembly, who had no idea of the value the work would be to posterity, were ready to offer.

On August 21, 1756, the Governor sent the following message to the Council and House:

"I have repeatedly recommended to former assemblies the appointing a committee to revise the laws of this Province, the particular plan of which has been laid before those assemblies, and may now be found in your files. I cannot permit this court to rise without again urging a consideration of this matter, it appears to me a matter of great moment; besides the inaccuracy of some of your laws, there are many which militate one with another, and others are expressed in ambiguous terms, so as to render the construction various and frequently altering; all which is not only dishonorable to the legislature but must be of bad consequence to the people of the government. You must be convinced, Gentlemen, that I have nothing in view but the real advantage of the Province, and I hope you will engage in the affair without delay."

In 1755 the Temporary Laws, then in force, were printed, and continued by the addition of supplements to 1763, when another edition was prepared, which was continued by supplements down to the time of the Revolution. None of those can be picked up in "Ye Antique Bookstore."

In 1759 an edition of the Perpetual Laws then in force was printed, and supplements to it were published each session up to 1774.

Many attempts were made in pre-revolutionary days by the patriots to revise the Provincial Laws, supply omissions and correct errors. This most interesting period of our history, the embryonic era, is most fully set forth in these law books, for, in addition to the Acts of the Province, all the Acts of Parliament, which led to the outbreak of the Revolution, are usually bound up with them.

In 1771 James Otis reported, in behalf of a committee, that "they find a great number of the standing laws omitted in the last impression, and some in the impression of the last but one of the Perpetual Laws, and also some laws left out of the last impression of the Temporary Laws, and that it was absolutely necessary to have a new edition of the Perpetual and Temporary Laws of the Province." This however failed to meet the approval of Hutchinson, not only Governor, but Chief Justice, as will appear by the following letter, now for the first time printed, dated at Boston, March 20, 1773, and addressed to Lord Dartmouth.

"I am obliged also to acquaint your Lordship that a vote has passed the two Houses both in this and the former Session for a new impression of the Province laws which have been some time out of Print. I think that printing the laws may very properly be claimed as part of the Prerogative, but in the Colonies it is attended with expences, as no Printer will under-

take it unless a sufficient number of books be engaged and therefore in this Colony, and I believe generally, it has been done by a vote of the General Court originated with the Representatives, and the care of the impression left with a Committee, and I refused my assent to these votes because I found it to be the declaration of one or more of the members of the House that none of the Acts of Parliament which are printed with the Province Laws should be brought into the new impression. I should have thought it of less importance if it had not evidently proceeded from the denial of the authority of those and all other Acts of Parliament which immediately respect us, and I think myself obliged to mention it to your Lordship as a proof of a fixed resolution to avoid acknowledging the supremacy of Parliament."

After the adoption of the Constitution in 1780, a compilation of the most important of the unrepealed laws of the Province was prepared, under a resolve of February 28, 1799, by a committee appointed to edit the laws. It was issued in 1801, and in 1807 it was so scarce that it was reprinted. In 1814 this edition was in turn exhausted, and another and more complete collection of the Laws of the Colony and Province appeared, under the title of "The Charters and General Laws of the Colony and Province of Massachusetts Bay." This volume contained the acts passed during the Revolution; the labor was performed by the late Hon. James Savage, under the direction of Nathan Dane, Judge Story and Judge Prescott, who were the commissioners, selected by the highest wisdom of this era in our history, as the most capable and learned in the State; this book has been out of print for years.

This edition of 1814 contained only eight hundred and sixteen pages of Laws of the Colony and Province, covering a period of one hundred and fifty years, while the first volume of the Province Laws, of the edition now in press, covering only twenty-two years, makes a volume of over nine hundred pages.

The following examples will show the value of the new light thrown upon legal matters in this ably edited book, The Province Laws.

In Vol. I. p. 172, in the margin, reference is made to I. Gray, p. 119, where neither court nor counsel finding authority "that the age of consent, in marriage, as fixed by the common law, is the rule in force in this Commonwealth, the court decided in an elaborate opinion that the common law rule prevailed here on general principles, there being no rule established by statute." But by the publication of this book it appears that there was actually an unrepealed act of the Province conclusive on the point, the knowledge of which would have saved both court and counsel much useless research, and that the age of consent was, for a man, fourteen years; for a woman, twelve. See Act, 1694-5, chap. 5, § 5.

Mr. Goodell has an elaborate note in Vol. I. p. 363, in which it appears that our copy of the Province charter of 1692 provides that "electors shall possess property to the value of *forty* pounds ster-

ling," while the original required *fifty*. This error found its way into the precepts for the choice of representatives, and invalidated all proceedings made under it, as not according to the charter.

Again in the *Commonwealth vs. Manning*, Dane's General Abridgment and Digest of American Law, Vol. III. chap. 71, Art. 5, Sec. 8-10, the following statements appear:

"It was said that this was clearly an indictment at common law by obstructing a town watering place or a common watering place, that no indictment lies at common law for obstructing a common watering place, . . . . further that there is no case to be found in the books of an indictment for obstructing a town watering place . . . . It has been our *practice* to indict nuisances involving the same principle."

Yet in Vol. I. chap 3, p. 312 of the Province Laws, the Act of 1698 clearly indicates that it was statute law.

The difference between the torments of the damned and the sufferings of the living, are clearly designated by the misspelling shown in Vol. I. p 430 of the Province Laws, correcting the ancient printer.

"*And whereas*, through the anguish of the [*deceased*] [*diseased*] testator, or through his solicitous intention though in health, or through the oversight of the scribe, some of the testator's children are omitted and not mentioned in the will, many children also being borne after the making of the will, thô in the life-time of their parents."

On the question, whether one single act concerning witchcraft was passed to be enacted, in 1711, such interest has been evoked among historians and lawyers, that four pamphlets have already been printed from papers read before the Massachusetts Historical Society and the Antiquarian Society at Worcester, and one more pamphlet is now in press, which will probably call forth another.

Of the importance of their preservation by publication, it is necessary to quote from the preface of the first volume of the Province Laws.

"It is a matter of congratulation, surely, that the original engrossments of the province laws incomplete though they be, have so generally withstood decay and the ravages of vermin, and have been preserved from the conflagrations which, more than once, during the provincial period destroyed so many valuable public records and files, and it is not less fortunate that there were societies and individuals interested in the preservation of the printed acts before the late improvements in paper making had increased their value for the manufacturer's purposes."

These Province Laws form a part of the fundamental laws of the state. At the present moment, all our laws relating to the government and prudential affairs of towns,—state valuation, apportionment and assessment of taxes, the establishment of courts and forms of writs and processes, the rules of practice, the summoning of juries, and the subordination of Inferior to Appellate Courts, the probate

system, the settlement of the estates of deceased persons, the support of paupers, the punishment of criminals, the inspection of various articles of merchandise, the rules governing domestic relations, the conveyance of lands and the registration of deeds, the general frame-work of the three great departments of government, legislative, judicial and executive, and their relation to each other, the appointment of sheriffs, coroners, constables, and other officers of the peace—are all derived from the laws of the Colony and Province, and most of them exist to-day without substantial change. The old laws, under which all these were established, as the result of experience, must necessarily be constantly referred to, in order to ascertain from their preambles and fulness of expression the true meaning of the condensed modern statutes, into which they have been compressed.

Such being the facts, these Province Laws will be recognized as invaluable in all courts. Does not this alone warrant the continuation of the same?

In the preservation of documents illustrating its early history, Massachusetts holds an enviable and honorable place among other states. Her Archives are rich mining fields for obtaining material for events yet unpublished. The old volumes contain the foundation of historical knowledge; they are continually throwing new light upon affairs which, but for their preservation, would have been buried in oblivion. By their means, a diligent seeker after truth is able to furnish data which will demolish inexact and careless writers; they have been searched diligently. When a lawyer wanted to find some particular act or resolve; when the writer of a town history wanted to find the act incorporating it as a precinct, district, or town, he was obliged formerly to spend days and sometimes weeks in the search for it, for want of good indexes. Now these volumes of the Province Laws are all thoroughly and carefully indexed, and it is easy to draw from them the richest treasures of the wisdom and experience of the past.

Few men have leisure to write books, and fewer still have the requisite skill and knowledge on subjects of law and history, for it requires an immense amount of time and research to render an article accurate, reliable, and interesting.

The fifth volume, as has been stated, soon to be issued, will close all the Public Acts down to 1780.

The commissioners in their preface foreshadow what they desire and purpose to do, as follows: "All Acts of Parliament in force in or affecting the Province; all private acts, in full; all votes of the General Court granting lands, establishing districts, precincts, and parishes, and determining territorial boundaries; all votes in the nature of declaratory acts or judicial decisions concerning the interpretation of the charter, the rules of the common law, and the jurisdiction and powers of the judicial courts; all executive action in respect to the organization of tribunals and the appointment of public officers in

which, by the charter, the legislature had no part, and all decisions of parliamentary law, are reserved for the appendix; to which it has been deemed proper to add a complete list of the sessions of the General Court, and such matters of historical importance found in the public records, as seemed of use to illustrate the progress of civilization, the amelioration of laws and manners, and the action of physical causes which affect society directly, or in their operation upon the sources of human comfort and sustenance."

The sixth volume will contain what are known as the Private Acts, but these will occupy only a small portion of the book, or appendix, for which the commissioners have been preparing a full collection of all unprinted votes and resolves relating to the establishment of towns, parishes, and districts. By referring to the index, the member from "Cranberry Centre" can trace out the ancient history for himself of his own town, fix the original grant, and follow its landed history through the changes of precinct, district, and town. To all searchers of history, or lawyers, and legislators, this sixth volume will be of great use and importance, as the searches which are carefully being made are in the forty-five ponderous folios of the General Court Records, the two hundred and ninety-nine volumes of the "Archives," the twenty-five manuscript volumes of Council Records, the sixty-seven volumes of the House Journals, and outside of the State House, in libraries and public offices, from the Lenox Library in New York to the State House at Augusta, Maine.

We have already shown with how much avidity the ancient predecessors of His Excellency sought to have the laws printed and preserved. Let us now come down to more modern days. There was once a governor, named John A. Andrew. In his inaugural address delivered Jan. 5, 1861, he says, in regard to the Provincial Statutes:

"I earnestly recommend the collection and publication under the patronage of the Commonwealth, of the statutes enacted between the time of the union of the two colonies of Plymouth and Massachusetts Bay, under the Charter of William and Mary 1691, and that of the adoption of the Constitution of 1780. Not more than a moiety of these Provincial Laws are to be found among the accumulations of the State Library; but the zeal and intelligent industry of one gentleman of the bar, has enabled him, after years of careful search, to complete a collection of them. They are of inestimable value on account of their historical interest, their usefulness in throwing light upon subsequent legislation, and the assistance which they afford in the determination of many important questions mooted by the profession and the courts."

Again on March 20, 1861, the lawyer as well as the governor of the Commonwealth utters his sentiments:

"By the constitution of the Commonwealth the statutes of the Province, Colony and State of Massachusetts Bay, not repugnant to that constitution, are continued in force until altered or repealed by the legislature. As there has been no general repeal of these statutes, many of them are still

part of the law of the land, and a much larger number are subjects of frequent reference in controversies relating to facts which occurred, or titles which become vested, while they are in force. As time goes on, and the knowledge of these laws, derived from memory and tradition, disappears, the importance of making them publicly known increases,

"A few examples will illustrate the present operation of these statutes better than any general statement. Cases involving the settlement of paupers, and the construction of ancient deeds and wills, are very familiar. Some statutes of the Province, affecting the titles of valuable lands, are not to be found except in the old and rare folio editions. Instances of the application of such statutes may be found in *Holland v. Cruft*, 3 Gray, 164, 173, and *Brown v. Wenham*, 10 Met. 498."

"There can be no better evidence of the importance and even necessity of publishing these statutes than the recent decision of the supreme judicial court, by which the title of the Commonwealth was established in a very valuable tract of land in the Back Bay. That judgment was based in great part upon the early Acts of the Colony, relating to the organization of towns, then recently rendered accessible in the publication by the state of the Massachusetts Colony Records.

\* \* \* \* \*

"The Provincial Statutes, whether public or private, in force or repealed, are of the greatest value in the interpretation of the existing statutes of the Commonwealth, and even of the constitution itself. It is a familiar rule in the construction of statutes, frequently applied by the courts, that all Acts upon the same subject, at whatever times passed, must be construed together as one Act.

\* \* \* \* \*

"In a historical point of view, the importance of the Provincial Statutes can hardly be exaggerated, covering, as they do, the whole history of the Province of Massachusetts Bay, from the union of the Colonies of Massachusetts and Plymouth to the establishment of the Commonwealth, and having had a great influence on the legislation of the other colonies.

"Yet, owing to negligence in collecting the sessions laws as they were published, and accidental destruction or dispersion of such collections as were made, these laws, which ought to be easily accessible to every lawyer and judge, every legislator and town officer, and every historical student, are in fact within the reach of very few. The State Library does not contain more than one half of them; and there are probably not more than half a dozen libraries in the Commonwealth, public and private, which comprehend so many as that. The only set which approaches completeness, and which, by many years of judicious and indefatigable research and constant and zealous industry, has been rendered so nearly perfect that any trifling deficiencies in it can be easily supplied, is that of *Ellis Ames, Esq.*, of Canton, who has most kindly and liberally offered to the Commonwealth the use of this invaluable collection in the preparation of any edition which they may desire to publish.

"The collection of "the Charters and General Laws of the Colony and Province of Massachusetts Bay," published by order of the General Court in 1814, and usually cited as "the Ancient Charters," as is well known to every one who has had occasion to pursue any legal or historical inquiry in the time of the Colony or Province, is very incomplete and inaccurate, and omits many public and general statutes, and all the local and special ones."



On the third of January, 1862, in the midst of all his tremendous labor for the salvation of the state, and the comfort of the soldiers, he does not forget the little wooden shanty at Canton, and the terrible loss to the bar and the historian, if a match were carelessly dropped by some departing client who loved his pipe.

"Of even superior importance in every point of view, is the preservation by publication, of the Provincial Statutes of Massachusetts covering a period of nearly a century, from 1691 to 1780, the only complete collection of which in existence has been gathered in one private library in the Commonwealth, and is subject to all the risks of loss, destruction, and dispersion, to which private property is necessarily liable. In my Inaugural Address to the General Court of 1861, I had the honor earnestly to recommend the printing of these statutes, and I desire earnestly to repeat that recommendation."

Even in the darkest days, when the currency was at its lowest depreciation, his loyal enthusiasm could not forbear again mentioning a subject that was evidently near the heart of the never-to-be-forgotten "War Governor.\*" In his address on the 6th of January, 1865, his arms being held up by the members of one of Massachusetts' most honored and venerable societies, he spoke these words:

"I received yesterday from a committee of the Massachusetts Historical Society, a letter, which I enclose with this communication, concerning the needed republication of our Provincial Statutes—which at the various sessions of the General Court, when propositions for such publication have been pending, has met your approval and support. In my address to the General Court at the session of 1861, I had the honor to urge the subject upon its attention, and a careful report earnestly recommending the publication was made to the Senate by the committee of which Hon. Mr. Whiting was chairman. The resolves reported by the committee failed, however, to be passed. In my address to the General Court of 1862, I again presented the subject. In 1863 and 1864 allusion was made to it occasionally in the proceedings of the General Court and its committees, but no legislative action was taken—not, I think, from any positive want of interest in the measure, but from the greater impression produced by other matters of more immediate importance, and the opinion that this one may wait yet longer.

"So that now in 1865, as in 1861, the only complete collection of our Provincial Statutes exists in the library of a private citizen, liable to all the hazards of fire and the ordinary accidents to which any private library is exposed. If this collection should be dispersed or destroyed, the importance of it would be realized at once. The loss to the historian of the Commonwealth would be irreparable; and also to the jurist. There would remain no complete series of the legislative acts of the Province of Massachusetts, covering that great and most interesting period of our judicial as well as political history from 1691, under the charter of William and Mary, down to the adoption of the Constitution of Massachusetts in 1780. Nor could the loss be repaired."

\* See Appendix E.

We have only space to quote one more Governor, upon whose shoulders appears to have fallen the mantle of love and reverence for ancient law and history, of this glorious Commonwealth, that was so conspicuous in Gov. Andrew.

We quote from Gov. Alexander H. Bullock's address, in 1866 :

"My predecessor twice in his annual address earnestly recommended the collection and publication of the Provincial Laws, as of inestimable value. In 1865 a Resolve was passed for the appointment of Commissioners to prepare for publication, at some future time, a complete copy of our Acts and Laws, from May, 1692, down to the Constitution, including all legislative Acts of legal and historical importance appearing on the General Court Records. Commissioners were appointed accordingly, who state to me that there can be procured an entire series of the printed pamphlets of all such Acts and Laws engrossed on parchment as the General Court saw fit to publish at the end of each session, from May, 1692, down to October 25, 1780, in ten folio volumes; but that there are very many enactments or laws, during that period, never engrossed on parchment, or printed, but extended in manuscript upon the General Court Records, of legal or historical importance, including the incorporation of some towns and of many precincts or parishes; to gather all of which would require a careful examination and discreet selection from twenty-six volumes of those Records. The Commissioners suggest that the means provided by the Resolve *are inadequate for so considerable a work*, and express a hope that, if the General Court shall deem the work worthy of completion, the Resolve may be amended, and more specific or precise directions be given. The landmarks of our legislation and jurisprudence ought to be clearly defined and sacredly preserved, and the suggestion of the Commissioners will, I trust, receive your approval."

The North American Review has been considered by most Americans as one of the ablest literary productions in the country, its standard is high, and among the contributors are the ablest minds in literature. Its statements carry weight, particularly when the author is known, although it is not the custom to have communications signed in its columns, and this is no exception to the rule.

The following notice appeared in the pages of the North American Review, Vol. III. p. 245, after the publication of the first volume of the Province Laws.

"To undertake to comment on the contents of a thick statute book would be something like attempting to make an abstract of a dictionary. A thoughtful reader of this volume will see reason to apply to many and many a page the remark forced from the unfriendly but able and knowing Chalmers, when he compared New England with the colonies of the South. In cases where the legislation of Massachusetts did not cross the higher powers at home, he was clear-sighted, and fair enough often to see and praise its wisdom. Writing nearly a century after the enactment of some laws which he named of the early provincial period, he said that they 'not only marked the spirit of the people, but were probably the cause of the most lasting consequences,' and that 'to these salutary regulations much of the populousness and of the commerce of the Massachusetts is owing.' The course of

nearly another prosperous century has now added its testimony to the whole soundness and durable efficacy of those primitive regulations, and this, too, in respect to matters more vital than were dreamed of in the philosophy of that juiceless economist."

Again, on the issue of the second volume, the North American Review thus mentions it, Vol. CXX. pp. 229, *et seq.*

"The second volume of the Provincial Laws of Massachusetts, prepared by Mr. Ames and Mr. Goodell, under the authority of the Commonwealth, was all but ready for publication, when the whole edition with the stereotype plates was destroyed by the great fire in Boston in 1872. We receive a copy of the reprint just as we dismiss the last sheets of this number. We expressed our sense of the singular value of the work at the time of the appearance of the first volume, four years ago.

\* \* \* \* \*

"This second volume of the Provincial Laws of Massachusetts covers the period of the thirty years peace between England and France in the reigns of the first two kings of the house of Hanover. It is the least interesting portion of the Massachusetts history. Yet the student of the causes of the growth of states will find matter for thought in observing the arrangements made here from year to year for keeping the people safe, orderly, healthy, peaceable, intelligent, industrious, moral, and religious; for courts of justice, for churches, ministers, and schools, for facilities of communication, for the restriction of pauperism and the support of the poor, for a just distribution of public burdens, for the encouragement and control of business.

We repeat that it is impossible to speak in too high praise of the execution of this work. Of course we have not verified the correctness of the copies of the statutes, extending in the two volumes through two thousand closely printed pages. But there is every appearance of the extremest exactness in the transcription. The book contains the abundant wealth of a wide and accurate learning, and the apparatus of tables and indexes furnishes perfectly fitting keys for access to the heaped-up treasures."

We have stated that the author's name was not appended to the above articles, but by the assistance of Mr. Poole's valuable "Index to Periodical Literature," a work prepared with great labor and research, we are able to assert that these articles in the North American were written by no less a person than John Gorham Palfrey, D.D., LL.D., a gentleman, who from his position as Secretary of the Commonwealth for four years, would alone entitle him to be a competent judge of the value of these records, and the way in which they had been edited; but when we consider that this high praise comes from one, who, by his exact, patient, and thoughtful study of the contemporaneous authors and documents of the period of which he wrote, his conscientious fidelity to truth, his impartiality, has rendered his History of New England almost a classic, worthy of the men, the measures, and the manners of the period it commemorated; when we consider that one, sometimes called "the greatest historian of New England," has showered such praise upon that portion of this edition

of the Province Laws which met his eye, can we believe that it is not worth continuing?

An article, containing about twenty pages, written by the Hon. Hamilton B. Staples, one of the Judges of the Superior Court, appeared in the Proceedings of the American Antiquarian Society, in April, 1884. It is the freshest contribution to the value of the Province Laws, as it was written after the appearance of the fourth volume. The distinguished jurist writes:

"The four large volumes already published of the Acts and Resolves of the Province of the Massachusetts Bay, prepared by the Commissioners, Mr. Ellis Ames and Mr. Abner C. Goodell, Jr., embrace three quarters of a century, viz.: from 1692-93 to 1768. These volumes supply abundant material for the history of the State as well as of many of its municipalities. They enable us to trace the development almost from germ life of our present system of laws and of government. They show us what the political and social life of the province was, and the perpetuity of that life under new forms and conditions.

All through these volumes there is an atmosphere of repression. The province was allowed to manufacture nothing that could come into competition with the manufactures of England. Although our people yielded to this claim they never believed in its justice, and, as time passed on, it proved more and more detrimental to the prosperity of the State. The necessity of a change was the one underlying cause of the Revolution."

The Hon. George H. Moore, of New York, the greatest living authority on the value of the Provincial Laws, thus writes in regard to their publication:

"The careful chief Magistrate might have noticed that the professional and scholarly ability devoted to this great work, to restore to Massachusetts a knowledge and use of her entire Provincial Legislation, was not very costly. The expense of the Executive Department and the whole legislative printing might be judiciously diminished during the next twenty years, enough to provide four thousand dollars a year, to obtain results of such value to history, and the historical reputation of Massachusetts, as has been secured by the \$77,505.77 which looks so formidable in the address. No scholar who has had occasion or opportunity to examine the volumes which have been issued, can fail to recognize the intrinsic value of a work, which reflects the highest honor on the Commonwealth. While it is a disgrace to most of our states that their statutes at large have never been printed, it will always be to the lasting honor of Massachusetts, that she will not be the last but always the first, to provide for the future preservation of these memorials of her honored past. I believe only Virginia and South Carolina have preceded her in this good work, and neither the one nor the other have produced anything to be compared in thoroughness and fidelity of editorial skill, with the work of the esteemed and honored Goodell. The

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Insert p. 21, after "historian and the people," the following: "to restore in full the active body of the Colony Laws under the first charter,"

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The more this clause in Gov. Robinson's message is considered, the more difficult it is to understand the motive that induced him to write it. He does not suggest that the expense is disproportionate to the work accomplished. Can he expect to have it done for less?

As to the "limit to the extent" of the work concerning which the Governor suggests the propriety of an inquiry by the Legislature, it would have been well for His Excellency to have pointed out exactly what obscurity exists in the resolve of the last legislature (1884, chap. 56), which he approved less than seven months before he prepared the above paragraph in his address. By that resolve "the time of the adoption of the Constitution" (Oct. 25, 1780) is expressly fixed as the limit of the "acts, laws, resolves and orders" which the commissioners are required to print. It is understood that the fifth volume, which will include all the public acts to that period, has been already stereotyped to the year 1779. The Governor has failed to point out in his message anything that has occurred since last May that would justify a modification of that resolve.

It cannot be supposed that the Governor has taken any special interest in the work either one way or the other. Indeed, it is probable that one so busily occupied in politics, and with matters of national concern, has had neither time or inclination to examine the volumes until very recently, and that therefore his bringing the subject to the attention of the Legislature at this day was a service to some of those about him who have opposed the work from the start, and who could not extort from him a more unfavorable allusion to the work than his rather faint compliment to the manner of its performance.

We have endeavored to show the value of the work, and the cost of publication; if we have fallen into any errors, there are many persons who can correct them.

As lovers of Massachusetts, proud of her history and anxious for its preservation, would it be presumptuous to offer the following suggestions:

That if the sole survivor of the original commissioners is still the competent and able man he was when selected, if he has increased in wisdom and understanding, if he has done his work with fidelity and accuracy, why should he not continue the work to its completion?

That if the Commonwealth of Massachusetts has paid him less than six hundred dollars a year, during the past twenty years, now that the Governor has brought this subject before the people and the Legislature, would it not be a fitting time for this wealthy and intelligent Commonwealth to grant him a compensation more nearly corresponding with the value of the services performed?

## APPENDIX A.

The Members of the Norfolk County Bar Association, at a meeting held February 17, 1885, in memory of the late Ellis Ames, unite in saying:

"They regard it as a striking and impressive testimony to his legal learning and professional fidelity that, with the exception of five years served in the Legislature in the very beginning, Mr. Ames devoted himself exclusively to the practice of the law throughout his whole career to the close, and that he had a full and successful practice, not only in Norfolk County, but in the counties of Bristol and Plymouth, and that he drew clients and law students from places far and near in these counties to his quiet country office, where his ample library, his rare collections of pamphlet editions of the Laws of Massachusetts and curious manuscripts were objects of interest to every visitor.

They also remember with great satisfaction the extensive researches made by Mr. Ames into the sources of the history of the colonies of Plymouth and Massachusetts Bay; his labors as a commissioner, under a resolve of the legislature for the publication of the Provincial Laws; his papers upon special historical subjects for the Massachusetts Historical Society, of which he was long a valuable member, and his intimate and exact knowledge of family genealogies, incidents and events, many of which are matters of unwritten history.

Finally, they would bear witness to his high sense of professional duty; to his untiring zeal in maintaining his clients' cause when upon trial; to his reliance upon legal principle and legitimate evidence in the argument of his causes; to his willingness to adjust controversies rather than needlessly to promote litigation; to his singleness and discreteness of purpose, and to his uncompromising integrity, all of which qualities entitled Ellis Ames to be held in grateful and honorable remembrance, both as a lawyer and a man."

## APPENDIX B.

The cost of printing the Massachusetts Colony Records in detail, Resolve 1853, chapter 33:

For printing 5 volumes, including plates and stereotyping	\$21,628.12
Additional copies volume 1 and 2	4,362.58
Reprinting 500 copies of each volume under Resolve 1855, chapter 19	7,112.10
N. B. Shurtleff, Editorial Services	3,500.00
Clerical Services	5,231.64
Total	<u>\$41,834.44</u>

## APPENDIX C.

The cost of printing the Plymouth Colony Records, Resolve 1855, chapter 19:

For printing 12 volumes	\$24,649.66
N. B. Shurtleff's Editorial Services	7,500.00
Clerical Services	14,968.00
Total	<u>\$47,117.66</u>



## APPENDIX D.

The total cost of preparing and printing the Provincial Laws, Resolves, 1869, chapter 87, is as follows:

Printing 5 volumes . . . . .	\$43,150.18
Clerical Services . . . . .	15,038.73
Bills of exchange for books . . . . .	2,347.51
Travel . . . . .	1,253.74
Miscellaneous . . . . .	202.13
Ellis Ames, Editorial . . . . .	2,926.33
A. C. Goodell, Jr., Editorial . . . . .	11,837.13
Commissioners' pay . . . . .	750.00
Total . . . . .	<u>\$77,505.75</u>

## APPENDIX E.

It is hardly fair to assess the cost of these volumes, upon five volumes, when by the postscript to the second volume it appears that the first edition of that volume, together with the stereotype plates, was wholly destroyed by the great fire of 1872, and the work had to be done over again, so that in reality the figures given by the Governor represent the cost of five complete volumes, averaging more than one thousand pages each, and between nine hundred and one thousand pages of the sixth volume. It may be mentioned, in this connection, that only one copy of the advance sheets of this volume was saved, having been sent to a gentleman in Cambridge. This saved the commissioners much delay, expense and labor. The plates of all the volumes of the Province Laws are owned by the Commonwealth.

## APPENDIX F.

At a Regular Meeting of the New England Historic Genealogical Society, holden at the Society's Rooms, in Boston, March 4th, A. D. 1863, the following resolution was offered:—

WHEREAS, on the 27th day of February, A. D. 1863, a communication was received by this society from Henry Wheatland, Esq., Secretary of the Essex Institute, enclosing the resolve and vote of said society, wherein they heartily approve of the recommendation of his Excellency, Governor Andrew, in his inaugural addresses for the year 1861 and 1862, to the Legislature, for the collection and publication of the statutes enacted between the years 1691 and 1780:—

*Voted*, that we fully concur with the Essex Institute in the importance of collecting and publishing the Colonial Statutes aforesaid, and will cheerfully join in any proper measure to promote an object of such historic value; and this society would also recommend the publication of the Journals kept by the legislature during the same period of Colonial history, as they are exceedingly valuable, and have become very scarce and are in danger of being lost.

The above preamble and vote were unanimously adopted.

A true copy from the records.

















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Again, on the issue of the second volume, the *North American Review* thus mentions it, Vol. CXX. pp. 229, *et seq.*

"The second volume of the *Provincial Laws of Massachusetts*, prepared by Mr. Ames and Mr. Goodell, under the authority of the Commonwealth, was all but ready for publication, when the whole edition with the stereotype plates was destroyed by the great fire in Boston in 1872. We receive a copy of the reprint just as we dismiss the last sheets of this number. We expressed our sense of the singular value of the work at the time of the appearance of the first volume, four years ago.

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"This second volume of the *Provincial Laws of Massachusetts* covers the period of the thirty years peace between England and France in the reigns of the first two kings of the house of Hanover. It is the least interesting portion of the Massachusetts history. Yet the student of the causes of the growth of states will find matter for thought in observing the arrangements made here from year to year for keeping the people safe, orderly, healthy, peaceable, intelligent, industrious, moral, and religious; for courts of justice, for churches, ministers, and schools, for facilities of communication, for the restriction of pauperism and the support of the poor, for a just distribution of public burdens, for the encouragement and control of business.

We repeat that it is impossible to speak in too high praise of the execution of this work. Of course we have not verified the correctness of the copies of the statutes, extending in the two volumes through two thousand closely printed pages. But there is every appearance of the extremest exactness in the transcription. The book contains the abundant wealth of a wide and accurate learning, and the apparatus of tables and indexes furnishes perfectly fitting keys for access to the heaped-up treasures."

We have stated that the author's name was not appended to the above articles, but by the assistance of Mr. Poole's valuable "*Index to Periodical Literature*," a work prepared with great labor and research, we are able to assert that these articles in the *North American* were written by no less a person than John Gorham Palfrey, D.D., LL.D., a gentleman, who from his position as Secretary of the Commonwealth for four years, would alone entitle him to be a competent judge of the value of these records, and the way in which they had been edited; but when we consider that this high praise comes from one, who, by his exact, patient, and thoughtful study of the contemporaneous authors and documents of the period of which he wrote his comprehensive and valuable work, we are enabled to feel that the praise is well deserved.

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of the Province Laws which met his eye, can we believe that it is not worth continuing?

An article, containing about twenty pages, written by the Hon. Hamilton B. Staples, one of the Judges of the Superior Court, appeared in the Proceedings of the American Antiquarian Society, in April, 1884. It is the freshest contribution to the value of the Province Laws, as it was written after the appearance of the fourth volume. The distinguished jurist writes:

"The four large volumes already published of the Acts and Resolves of the Province of the Massachusetts Bay, prepared by the Commissioners, Mr. Ellis Ames and Mr. Abner C. Goodell, Jr., embrace three quarters of a century, viz.: from 1692-93 to 1768. These volumes supply abundant material for the history of the State as well as of many of its municipalities. They enable us to trace the development almost from germ life of our present system of laws and of government. They show us what the political and social life of the province was, and the perpetuity of that life under new forms and conditions.

All through these volumes there is an atmosphere of repression. The province was allowed to manufacture nothing that could come into competition with the manufactures of England. Although our people yielded to this claim they never believed in its justice, and, as time passed on, it proved more and more detrimental to the prosperity of the State. The necessity of a change was the one underlying cause of the Revolution."

The Hon. George H. Moore, of New York, the greatest living authority on the value of the Provincial Laws, thus writes in regard to their publication:

"The careful chief Magistrate might have noticed that the professional and scholarly ability devoted to this great work, to restore to Massachusetts a knowledge and use of her entire Provincial Legislation, was not very costly. The expense of the Executive Department and the whole legislative printing might be judiciously diminished during the next twenty years, enough to provide four thousand dollars a year, to obtain results of such value to history, and the historical reputation of Massachusetts, as has been secured by the \$77,505.77 which looks so formidable in the address. No scholar who has had occasion or opportunity to examine the volumes which have been issued, can fail to recognize the intrinsic value of a work, which reflects the highest honor on the Commonwealth. While it is a disgrace to most of our states that their statutes at large have never been printed, it will always be to the lasting honor of Massachusetts, that she will not be the last but always the first, to provide for the future preservation of these memorials of her honored past. I believe only Virginia and South Carolina have preceded her in this good work, and neither the one nor the other have produced anything to be compared in thoroughness and fidelity of editorial skill, with the work of the esteemed and honored Goodell. The State of Massachusetts ought to pay him \$5,000 a year for the rest of his life, and furnish his office with the records of the Province Laws, complete and accessible, to the lawyer, historian and the people, that time, when Massachusetts laid the foundations sure and deep of the law of the whole continent, for true it is, that Massachusetts has given the law to this whole country, more literally than her friends or her enemies have ever cared to assert or admit."

nearly another prosperous century has now added its testimony to the whole soundness and durable efficacy of those primitive regulations, and this, too, in respect to matters more vital than were dreamed of in the philosophy of that juiceless economist."

Again, on the issue of the second volume, the *North American Review* thus mentions it, Vol. CXX. pp. 229, *et seq.*

"The second volume of the *Provincial Laws of Massachusetts*, prepared by Mr. Ames and Mr. Goodell, under the authority of the Commonwealth, was all but ready for publication, when the whole edition with the stereotype plates was destroyed by the great fire in Boston in 1872. We receive a copy of the reprint just as we dismiss the last sheets of this number. We expressed our sense of the singular value of the work at the time of the appearance of the first volume, four years ago.

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